

Medical Malpractice

Compiled by Arden Rice, December 2003

<http://www.legis.state.wi.us/lrb/pubs/tapthepower.htm>

The American Medical Association recently rated Wisconsin as one of only a few states not experiencing a medical malpractice insurance rate crisis. States are implementing a variety of reforms to maintain access to health care.

Addressing the New Health Care Crisis: Reforming the Medical Litigation System to Improve the Quality of Health Care. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, March 3, 2003. (614.230/X4) Examines the impact of increasing premiums on physicians' ability to practice medicine and explores various mechanisms for medical personnel to report errors without fear of litigation. <http://aspe.hhs.gov/daltcp/reports-a.shtml#DALTCP31>

Addressing the Medical Malpractice Insurance Crisis. (Issue Trends) National Governors' Association Center for Best Practices, 2002. (614.230/N21) Summarizes two dozen different tactics used by states to mitigate the effects of rising malpractice insurance rates.

www.nga.org/cda/files/1102MEDMALPRACTICE.pdf

An Audit, Patients Compensation Fund, Office of the Commissioner of Insurance. Wisconsin Legislative Audit Bureau (2001 and 1998). (614.230/W7b/1999-00 and 614.230/W7b/ 1995-97). These two audits address recent fiscal issues surrounding Wisconsin's Patient Compensation Fund. Previous audits are available in the state documents collection.

www.legis.state.wi.us/lab/reports/01-11full.pdf and

www.legis.state.wi.us/lab/reports/98-7Summary.htm

Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. July 25, 2002. (614.230/X3) Argues that medical malpractice insurance rates threaten access to care in many areas of the country and that inflated health costs are a result of "defensive medicine" practices by physicians intimidated by the threat of malpractice suits. <http://aspe.hhs.gov/daltcp/reports-c.shtml#DALTCP25>

"Medical Liability Insurance". Congressional Digest, v.82, no.2, p.33-64, February 2003. (614.230/C762) Debates the 2002 H.R. Bill 4600 that would have capped non-economic damages at \$250,000.

"Medical Malpractice". Congressional Quarterly, Inc., CQ Researcher, v.13, no.6, p.130-151 February 14, 2003. (614.230/C761c) Examines the trends in rising premium costs, outlines the measures states have taken to limit damages awarded in malpractice suits, and debates whether federal legislation is necessary.

"Medical Malpractice". National Conference of State Legislatures, State Health Lawmakers' Digest, v.3, no.4, Summer 2003. (614.23/N21b) Describes no-fault compensation plans, arbitration, and damage caps as solutions implemented by various states to reduce the cost of medical malpractice insurance.

Medical Malpractice Caps: The Impact of Non-Economic Damage Caps on Physician Premiums, Claims Payout Levels, and Availability of Coverage. Weiss Ratings, Inc., June 2003. (614.230/W43) Commonly known as the "Weiss report", this study faults the investment practices of insurance companies and the inability of the medical profession to police itself for the rise in malpractice insurance rates.

www.weissratings.com/MedicalMalpractice.pdf

Medical Malpractice Crisis (Trends Alert). Council of State Governments, April 2003. (614.230/C83) Provides an historical analysis of the medical malpractice crises in the 1970s, 1980s, and the present, and outlines the various legal, medical, and insurance reforms that states can consider to alleviate the current crisis.

Medical Malpractice: Implications of Rising Premiums on Access to Health Care. U.S. General Accounting Office, August 2003. (614.230/X7/pt.1) Investigates whether "defensive medical practices" are inflating the cost of health care and how tort reform in certain states has impacted insurance premiums.

www.gao.gov/new.items/d03836.pdf

Medical Malpractice Insurance: Multiple Factors Have Contributed to Increased Premium Rates. U.S. General Accounting Office, June 2003. (614.230/X7/pt.2) The goal of this study was to analyze the extent of premium rate increases, the causes of this recent trend and how this crisis differs from previous medical malpractice insurance crises. www.gao.gov/new.items/d03702.pdf

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Patients Compensation Fund. (2003-05 Budget Issue Paper #458) Wisconsin Legislative Fiscal Bureau, April 23, 2003. (LFB/b/2003-5/no.458) (noncirculating) This brief analyzes Governor Doyle's 2003 failed budget proposal to transfer \$200 million from the fund to a new "health care provider availability and cost control fund" overseen by Department of Health and Family Services. www.legis.state.wi.us/lfb/2003-05budget/2003-05BudgetPapers/458.pdf

Preliminary Report on the Feasibility of an Ohio Patients Compensation Fund. Pinnacle Actuarial Resources, Inc., February 2003. (614.230/Oh3) Compares and contrasts the administrative and fiscal organization of PCFs in a dozen states including Wisconsin. www.ohioinsurance.gov/Legal/REPORTS/Prelim_Patient_Compensation_Report_03-03-03.pdf

"Reforming the Medical Malpractice Insurance Market". Stephanie Norris, NCSL State Legislative Report, v. 27, no. 13, July 2002. (614.230/N211b) Highlights measures taken by states in 2002 to improve the condition of the medical liability insurance industry such as limiting attorney fees and awards and shortening the statute of limitations for filing claims.

The Weiss Ratings Report on Medical Malpractice Caps: Propagating the Myth That Non-Economic Damage Caps Don't Work. Physician Insurers Association of America, July 2003. (614.230/P56) A critical analysis of the methodology used in the Weiss report. www.thepiaa.org/text_files/WEISS070903.htm

"What's at Stake for Your Family? Maintaining Wisconsin's Delicate Medical Liability Balance". Wisconsin Medical Society, Your Doctor, Your Health, v.2, no.3, p.5-8, Fall 2003. (614.230/W75b) A local perspective on how the current medical malpractice crisis is impacting Wisconsin, including guest responses by Sen. Dale Schultz and Rep. Sheldon Wasserman.

Wisconsin Health Care Liability Insurance Plan (WHCLIP). Office of the Commissioner of Insurance, 1992. (614.230/W7c1) Examines the operation of WHCLIP, the state-sponsored malpractice insurer that provides coverage for claims too small to be covered by the Patients Compensation Fund.

Wisconsin Patients Compensation Fund: Functional and Progress Report. Wisconsin Office of the Commissioner of Insurance, 1976-1986. (Ins/w) (noncirculating) These legislatively mandated reports include claim reports and audits from an independent actuarial firm.

Related Web Sites:

www.ama-assn.org/ama/pub/category/7861.html – American Medical Assn. Medical Liability Reform

www.atla.org/medmal/main.aspx – American Trial Lawyers Assoc. Medical Malpractice in America

www.hcla.org – Health Coalition on Liability and Access

www.ncsl.org/programs/insur/medmal.htm – NCSL's Medical Malpractice site

www.thepiaa.org/public_home.asp – Physician Insurers Association of America

www.rwjf.org/reports/npreports/impacs.htm – Robert Wood Johnson Foundation: Improving Malpractice Prevention and Compensation Programs

www.mcandl.com/states.html – Summary of Medical Malpractice Law: Index of States

State Patients Compensation Funds:

www.in.gov/idoi/medmal – Indiana

www.hcsf.org – Kansas Health Care Stabilization Fund

www.lapcf.state.la.us – Louisiana

www.state.sc.us/sclac/Reports/2000/pcf.htm – South Carolina Legislative Audit Council Report

<http://oci.wi.gov/pcf.htm> – Wisconsin Patients Compensation Fund

Reform efforts and studies from other states:

www.cga.state.ct.us/olr/medicalmalpractice.htm Connecticut

www.unf.edu/thefloridacenter/Files/Medical%20Malpractice%20Update.pdf – Florida

<http://insurance.mo.gov/aboutMDI/issues/medmal> Missouri

www.leg.state.nv.us/lcb/research/library/HotTopics.cfm Nevada

www.state.nj.us/dobi/drcorner.htm – New Jersey

www.ohcr.state.pa.us – Pennsylvania

Clippings: (Noncirculating; available for use in the library; clippings prior to 1981 are on microfiche)

- Physicians (malpractice): 623.230/M29Z